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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,755	01/19/2004	James Jen	14186 B	2876

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/761,755

Applicant(s)

JEN, JAMES

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 10 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1-4 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bucknell, UK Patent Application 2 170 757 in view of Schirneker, DE 37 18369.

3. With respect to claim 1, Bucknell teaches table decoration employing candles comprises a rotating bearer (15) with an ornaments (16) fixed to its external surface, a vertical rod (12) and base (11) that support the rotating bearer (15). The vertical rod (12) is vertically fixed to the base (11) and candles emitting heat (13) are set on the base (11) under the rotating bearer (15). The ornaments are fixed to the external surface of the rotating bearer (15) has partial side surface formed into evenly distributed vanes (16) with air-vane rake face and exit. The rotating bearer (12) has a recess (35) at its inner top center and the vertical rod (12) has short vertical upward taper rod (25) such that the recess (35) rest on the tip of the rod

(25) so that the rotating bearer (12) can freely rotate. (See lines 101-106).

The rotating bearer (15) with ornaments (16) fixed to its external surface is put downward vertically with the recess (35) resting into the rod (25) at the top of the vertical rod (12). The candle source emitting heat (13) warms the air in proximity and forms a low pressure at the light source (13), thus forming a rising air flow that acts on the driving vanes (16) of the ornament to produce lateral force, resulting in driving the rotating bearer (15) and the ornament fixed to its external surface rotate around the rod (12).

4. Bucknell does not teach the short tapered rod on the rotating bearer and the recess on the vertical rod.

5. Schirneker teaches a rotating shadow luminary comprising a rotating bearer (1,15) with ornamental openings (22) on the surface thereof, a vertical rod (16), stirrup (23) and base (24) that support the rotating bearer (15). The vertical rod (16) is vertically fixed to the stirrup 23 which is fixed to the base (24) and a candle emitting heat (25) is set on the base (24) under the rotating bearer (15). The rotating bearer (15) formed into evenly distributed vanes (19) with air-vane rake face and exit. The rotating bearer (15) has a bearing pin or ball (17) situated in counter bearing or recess (not labeled) at the top center of the vertical rod (16). The rotating bearer (15).

The candle source emitting heat (25) warms the air in proximity and forms a low pressure at the light source (25), thus forming a rising air flow that acts on the driving vanes (19,21) resulting in driving the rotating bearer (15) around the rod (12).

6. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the taper rod and recess of the vertical rod and rotating bearer of the device taught by Bucknell with the taper rod or pin mounted on the rotating bearer and the recess on the vertical rod as taught by Schirneker, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

7. With respect to claim 2, Bucknell teaches the rotating bearer (15) is an axisymmetric cone-shaped web that comprises at least two horizontal rings (17) of different diameters and at least two longitudinal frameworks (19), and the ornament (32) is fixed to said horizontal rings (17) and longitudinal framework. (See figure 3). The rotating bearer (15) also comprises a top piece (18) at the top round disc.

8. With respect to claim 3, Bucknell teaches the base (10) has a hole (21) in its center and the vertical rod (12) is inserted into this hole (32). The

candles are inserted into many holes (28) in the base (10) around the vertical rod (12).

9. Claims 1, 2, 3, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bucknell in view of Zer et al., U. S. Patent 5,860,725.

10. Zer et al. teaches a heat operated rotatable device comprising a rotating bearer (12) with ornamental openings (14) on the surface thereof, a rod (26), top cap (22) and base (24) that support the rotating bearer (12). The rod (26) is fixed to the base (24) and a candle emitting heat (40) is set on the base (24) under the rotating bearer (12). The rotating bearer (12) has a bearing pin or pivot post (28) situated in recess (30) at the top center of the top cap (22).

11. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the taper rod and recess of the vertical rod and rotating bearer of the device taught by Bucknell with the pivot post or pin mounted on the rotating bearer and the recess on the top cap on the vertical rod as taught by Zer et al, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

***Allowable Subject Matter***

Claim is allowable over the prior art of record.

***Response to Arguments***

12. Applicant's arguments filed August 12, 2005 have been fully considered but they are not persuasive.

13. The applicant argues that the vanes taught by Bucknell are not ornaments. In addition, the applicant the ornament (8) of the present invention is fixed to a rotating bearer (1), wherein the external surface has the function of vanes. In addition, the applicant points out that the observer can't see the vanes and the ornament and vanes are combined as one component.

14. The examiner maintains the applicant does not clearly define the vanes and does not claim limitations precluding the vanes (16) of Bucknell from corresponding to the claimed vanes.

15. In addition, the examiner contends the applicant does not clearly disclose the observer cannot see the ornaments. In figure 2, for instance, it appears as if the ornaments 8 are clearly visible.

16. Therefor, the examiner contends that Bucknell, the primary reference, teaches all the limitation of the claims except the connection between the

tapered recess in the top of the vertical rod and the taper rod in the rotating bearer.

17. Both Schirneker and Zer et al teaches a rotatable display having a vertical rod with a tapered recess and a display member with vanes having a tapered rod rotatably engaging the recess.

18. The rejection is maintained.

### ***Conclusion***

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cassandra Davis  
Primary Examiner  
Art Unit 3611

CD  
November 3, 2005